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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,531	07/25/2003	John Harvey	030299	2906
23696	7590	07/11/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714				LIEU, JULIE BICHNGOC
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/627,531	HARVEY, JOHN
	Examiner	Art Unit
	Julie Lieu	2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 3/21/05.

2a) This action is **FINAL**.                                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-24 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. This Office action is in response to Applicant's amendment filed March 21, 2005. No claims have been amended, canceled, or added.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

3. Claims 1-5, 7-10, 12-19, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Whelan et al. (US Patent No. 6,067,044).

#### **Claim 17:**

Whelan discloses an apparatus for providing a virtual fence for use with a delivery vehicle, the method comprising steps of:

- a. Means 20 for detecting a protection event
- b. Means (fig. 3) for determining that the protection event is an activation event; and
- c. Means for activating a selected virtual fence based on the activation event.

See col. 2, lines 22-42.

#### **Claim 18:**

The Whelan system further comprises means for determining that the activation event is a sub-event, and means for activating the selected virtual fence based the sub-event.

Claim 19:

Whelan's system inherently includes means for activating one of a boundary fence, a perimeter fence, and a route fence based on the sub-event.

Claim 22:

The Whelan system deactivates the virtual fence based on the activation event.

Claim 16 and 23:

Whelan discloses outputting a vehicle message that is used to control a vehicle control system. See fig. 4.

Claim 24:

The rejection of claim 24 recites that rejection of claim 17. It is inherent that the Whelan system includes a computer-readable medium comprising computer-executable instruction to perform the function disclosed.

Claims 1-5:

The rejection of claims 1-5 recites the rejection of claim 17-20, except they are method claims.

Claim 7:

The rejection of claim 7 recites the rejection of claim 22, except they it is method claim.

Claim 8:

The rejection of claim 8 follows the rejection of claim 17. The Whelan system includes input logic as shown in fig. 3 to receive protection signal and fence logic operating to detect an activation event based on the protection signal.

Claims 9-10 and 14:

In the Whelan system, the input logic can be operator input or sensor input.

Claims 12-13 and 15:

The input logic in Anthony is a position signal and the protection signal is a position signal.

*Claim Rejections - 35 USC § 103*

4. Claims 6, 11, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whelan et al. (US Patent No. 6,067,044).

Claims 11 and 20:

Whelan is used for heavy dozer vehicle. Whelan, however, suggest its use on a train. Thus, it would have been obvious to one skilled in the art to use the Whelan geofencing system on a tractor and trailer as desired. Though there is no specific disclosure in the reference about the sub-event being one that occurs when the trailer portion is unhooked from a tractor portion of a delivery vehicle, one skilled in the art would have readily recognized that the circumstances which appear to deviate from expected standards would effectuate geofencing of the vehicle. One skilled in the art would activate geofencing under such circumstance as desired.

Claim 21:

The apparatus in Whelan comprises means for determining if the vehicle is moved outside the selected virtual fence. One skilled in the art would have readily recognized determining if the trailer is moved outside the selected virtual fence as desired depending on what the implementer wants the system to detect.

Claim 6:

The rejection of claim 6 recites the rejection of claim 20, except it is method claim.

***Remarks***

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie Lieu  
Primary Examiner  
Art Unit 2636

Jul 07, 05